

1. This revision petition is directed against the order passed by the Tax Board dated 06.02.2002, whereby the Tax Board held that the packing material of IMFL (liquor), i.e. bottles, which the Tax Board has chosen to name as '*Bardana*', is not taxable as the Revenue failed to establish separate sale of packing material of IMFL by the respondent

assessee.

2. This appeal, in fact, arose out of the order of the Deputy Commissioner (Appeals) dated 28.11.1997, by which the DC (Appeals) has remanded the case back to the assessing authority. In the meanwhile, however, against the order of the assessing authority dated 27.11.1999 for the years 1991-92, 1992-93 and 1993-94, the DC (Appeals) again allowed the appeal of the assessee following the Division Bench judgment of this court in the case of *Udaipur Distillery Co. Ltd. Vs. Rajasthan Taxation Tribunal & Ors.* reported in **(2003) 132 STC 489 (Raj.)** holding that in the absence of any separate sale of packing material, i.e. bottles, proved by the Revenue in the case of sale of IMFL, no tax could be imposed on such implied sale of packing material. That order of the DC (Appeals) on merit in favour of the respondent assessee dated 28.05.2001 has also been placed on record by the Revenue in the present revision petition.
3. Be that as it may, since the appellate authorities have found concurrently against the Revenue in view of the Division Bench

judgment of this court in the case of *Udaipur Distillery Co. Ltd.*

(supra) that in the absence of separate sale of packing material having been established by the Revenue, no tax could be imposed on the sale of packing material, the issue being no longer *res integra*, this revision petition is found to be devoid of merit and the same is dismissed with no order as to costs. A copy of this order be sent to the respondent assessee.

(Dr.VINEET KOTHARI),J.

Pramod
Item No. 1